

ASSEMBLY BILL

No. 1026

Introduced by Assembly Member Knight

February 18, 2011

An act to amend Section 245 of the Penal Code, relating to assault.

LEGISLATIVE COUNSEL'S DIGEST

AB 1026, as introduced, Knight. Assault: force likely to produce great bodily injury.

Existing law provides that any person who commits an assault upon the person of another by any means of force likely to produce bodily injury shall be punished by imprisonment in the state prison for 2, 3, or 4 years, or in a county jail for not more than one year, or by a fine not to exceed \$10,000, or by both the fine and imprisonment.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 245 of the Penal Code, as amended by
- 2 Section 53 of Chapter 178 of the Statutes of 2010, is amended to
- 3 read:
- 4 245. (a) (1) Any person who commits an assault upon the
- 5 person of another with a deadly weapon or instrument other than
- 6 a firearm ~~or by any means of force likely to produce great bodily~~
- 7 ~~injury~~ shall be punished by imprisonment in the state prison for
- 8 two, three, or four years, or in a county jail for not exceeding one

1 year, or by a fine not exceeding ten thousand dollars (\$10,000),
2 or by both the fine and imprisonment.

3 (2) Any person who commits an assault upon the person of
4 another with a firearm shall be punished by imprisonment in the
5 state prison for two, three, or four years, or in a county jail for not
6 less than six months and not exceeding one year, or by both a fine
7 not exceeding ten thousand dollars (\$10,000) and imprisonment.

8 (3) Any person who commits an assault upon the person of
9 another with a machinegun, as defined in Section 16880, or an
10 assault weapon, as defined in Section 30510 or 30515, or a .50
11 BMG rifle, as defined in Section 30530, shall be punished by
12 imprisonment in the state prison for 4, 8, or 12 years.

13 (4) *Any person who commits an assault upon the person of*
14 *another by any means of force likely to produce great bodily injury*
15 *shall be punished by imprisonment in the state prison for two,*
16 *three, or four years, or in a county jail for not exceeding one year,*
17 *or by a fine not exceeding ten thousand dollars (\$10,000), or by*
18 *both the fine and imprisonment.*

19 (b) Any person who commits an assault upon the person of
20 another with a semiautomatic firearm shall be punished by
21 imprisonment in the state prison for three, six, or nine years.

22 (c) Any person who commits an assault with a deadly weapon
23 or instrument, other than a firearm, or by any means likely to
24 produce great bodily injury upon the person of a peace officer or
25 firefighter, and who knows or reasonably should know that the
26 victim is a peace officer or firefighter engaged in the performance
27 of his or her duties, when the peace officer or firefighter is engaged
28 in the performance of his or her duties, shall be punished by
29 imprisonment in the state prison for three, four, or five years.

30 (d) (1) Any person who commits an assault with a firearm upon
31 the person of a peace officer or firefighter, and who knows or
32 reasonably should know that the victim is a peace officer or
33 firefighter engaged in the performance of his or her duties, when
34 the peace officer or firefighter is engaged in the performance of
35 his or her duties, shall be punished by imprisonment in the state
36 prison for four, six, or eight years.

37 (2) Any person who commits an assault upon the person of a
38 peace officer or firefighter with a semiautomatic firearm and who
39 knows or reasonably should know that the victim is a peace officer
40 or firefighter engaged in the performance of his or her duties, when

1 the peace officer or firefighter is engaged in the performance of
2 his or her duties, shall be punished by imprisonment in the state
3 prison for five, seven, or nine years.

4 (3) Any person who commits an assault with a machinegun, as
5 defined in Section 16880, or an assault weapon, as defined in
6 Section 30510 or 30515, or a .50 BMG rifle, as defined in Section
7 30530, upon the person of a peace officer or firefighter, and who
8 knows or reasonably should know that the victim is a peace officer
9 or firefighter engaged in the performance of his or her duties, shall
10 be punished by imprisonment in the state prison for 6, 9, or 12
11 years.

12 (e) When a person is convicted of a violation of this section in
13 a case involving use of a deadly weapon or instrument or firearm,
14 and the weapon or instrument or firearm is owned by that person,
15 the court shall order that the weapon or instrument or firearm be
16 deemed a nuisance, and it shall be confiscated and disposed of in
17 the manner provided by Sections 18000 and 18005.

18 (f) As used in this section, “peace officer” refers to any person
19 designated as a peace officer in Chapter 4.5 (commencing with
20 Section 830) of Title 3 of Part 2.